

SENATE BILL No. 418

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-19-5.

Synopsis: Community revitalization enhancement district (CRED) tax credit. Establishes a procedure and criteria for appealing a decision by the department of state revenue that a taxpayer is not eligible for the community revitalization enhancement district tax credit (CRED) because the taxpayer's business relocated operations into the district from another location in Indiana.

Effective: July 1, 2004.

Broden

January 12, 2004, read first time and referred to Committee on Finance.

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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE BILL No. 418

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-3.1-19-5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) ~~Except as~~
3 ~~provided in subsection (b);~~ A taxpayer is not entitled to claim the credit
4 provided by this chapter to the extent that the taxpayer substantially
5 reduces or ceases its operations in Indiana in order to relocate them
6 within the district. ~~(b) Notwithstanding subsection (a), a taxpayer's~~
7 ~~substantial reduction or cessation of operations in Indiana in order to~~
8 ~~relocate operations to a district does not make a taxpayer ineligible for~~
9 ~~a credit under this chapter if: (1) Determinations under this section~~
10 ~~shall be made by the department of state revenue. The department~~
11 ~~shall adopt a proposed order concerning a taxpayer's eligibility for~~
12 ~~the credit based on the following criteria and subsection (b):~~
13 (1) A site-specific economic activity, including sales, leasing,
14 service, manufacturing, production, storage of inventory, or
15 any activity involving permanent full-time or part-time
16 employees, shall be considered a business operation.
17 (2) With respect to an operation located outside the district



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(referred to in this section as a "non-district operation"), any of the following that occurs during the twelve (12) months before the completion of the physical relocation of all or part of the activity described in subdivision (1) from the non-district operation to the district as compared with the twelve (12) months before that twelve (12) months shall be considered a substantial reduction:

(A) A reduction in the average number of full-time or part-time employees of the lesser of one hundred (100) employees or twenty-five percent (25%) of all employees.

(B) A twenty-five percent (25%) reduction in the average number of goods manufactured or produced.

(C) A twenty-five percent (25%) reduction in the average value of services provided.

(D) A ten percent (10%) reduction in the average value of stored inventory.

(E) A twenty-five percent (25%) reduction in the average amount of gross income.

(b) Notwithstanding subsection (a), a taxpayer that would otherwise be disqualified under subsection (a) is eligible for the credit provided by this chapter if each of the following conditions is met:

(1) The taxpayer relocates all or part of its non-district operation for any of the following reasons:

(A) The lease on property necessary for the non-district operation has been involuntarily lost through no fault of the taxpayer.

(B) The space available at the location of the non-district operation cannot accommodate planned expansion needed by the taxpayer.

(C) The building for the non-district operation has been certified as uninhabitable by a state or local building authority.

(D) The building for the non-district operation has been totally destroyed through no fault of the taxpayer.

(E) The renovation and construction costs at the location of the non-district operation are more than one and one-half (1 1/2) times the costs of purchase, renovation, and construction of a facility in the district, as certified by three (3) independent estimates.

(F) The taxpayer had existing operations in the district and ~~(2)~~ the non-district operations relocated to the district are an

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expansion of the taxpayer's operations in the district. (c)

A taxpayer is eligible for benefits and incentives under clause (C) or (D) only if renovation and construction costs at the location of the non-district operation are more than one and one-half (1 1/2) times the cost of purchase, renovation, and construction of a facility in the district. These costs must be certified by three (3) independent estimates.

(2) The taxpayer has not terminated or reduced the pension or health insurance obligations payable to employees or former employees of the non-district operation without the consent of the employees.

(c) The department of state revenue shall cause to be delivered to the taxpayer and to any person who testified before the department in favor of disqualification of the taxpayer a copy of the department's proposed order. The taxpayer and these persons shall be considered parties for purposes of this section.

(d) A party who wishes to appeal the proposed order of the department of state revenue shall, within ten (10) days after the party's receipt of the proposed order, file written objections with the department. The department shall immediately forward copies of the objections to the director of the budget agency and the director of the department of commerce. A hearing panel composed of the commissioner of the department of state revenue or the commissioner's designee, the director of the budget agency or the director's designee, and the director of the department of commerce or the director's designee shall set the objections for oral argument and give notice to the parties. A party at its own expense may cause to be filed with the hearing panel a transcript of the oral testimony or any other part of the record of the proceedings. The oral argument shall be on the record filed with the hearing panel. The hearing panel may hear additional evidence or remand the action to the department of state revenue with instructions appropriate to the expeditious and proper disposition of the action. The hearing panel may adopt the proposed order of the department of state revenue, may amend or modify the proposed order, or may make such order or determination as is proper on the record. The affirmative votes of at least two (2) members of the hearing panel are required for the hearing panel to take action on any measure. The taxpayer may appeal the decision of the hearing panel to the tax court in the same manner that a final determination of the department of state revenue may be appealed under IC 33-3-5.

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1 **(e) If no objections are filed, the department of state revenue**
2 **may adopt the proposed order without oral argument.**

3 **(f) A determination that a taxpayer is not entitled to the credit**
4 **provided by this chapter as a result of a substantial reduction or**
5 **cessation of operations applies to credits that would otherwise arise in**
6 **the taxable year in which the substantial reduction or cessation occurs**
7 **and in all subsequent years. ~~Determinations under this section shall be~~**
8 **~~made by the department of state revenue.~~**

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